

REMARKS

This is in response to the Office Action mailed October 8, 2009 ("the Office Action"). By this reply, Applicant amends claims 11, 15-17, 24, and 30, and cancels claims 13 and 21 without prejudice or disclaimer. No new matter has been added. Support for the claim amendments can be found in the as-filed specification, for example, at least Fig. 2 and paragraph [0016] of the published application. Of these claims, claims 11, 16, 17, 24, and 30 are independent. Claims 11, 15-20 and 22-32 remain pending in this Application.

Obviousness Rejections

In the Office Action, claims 16-28, and 30-32 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 4,229,486 to Muller ("Muller") in view of U.S. Patent No. 5,036,757 to Mueller ("Mueller"); and claims 11, 13, 15, and 29 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,953,165 to Griebat et al. ("Griebat"). Applicant respectfully traverses these rejections.

A proper *prima facie* case of obviousness requires three elements: (1) there must be a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference; (2) there must be a reasonable expectation of success; and (3) the prior art reference (or references when combined) must teach or suggest all the claim features. See M.P.E.P. § 2142. To sustain a rejection under 35 U.S.C. § 103, an Examiner must clearly

articulate the reason(s) why the claimed invention would have been obvious. Such an analysis should be made explicit and cannot be premised upon mere conclusory statements. See M.P.E.P. § 2142. “A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention.” M.P.E.P. § 2145. Additionally, “[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.” M.P.E.P. § 2141.02(l) (emphasis in original).

Amended independent claim 16 recites, among other things, a roller having “assigned slots configured to convey air, the slots positioned adjacent to the baffles on the roller, wherein seeding the corn grains includes introducing air through the assigned slots.” As disclosed in the specification of the instant application, “[t]he hollow shaft 14 has a plurality of openings 17 for the discharge of air. The air enters the processing zone 6 through the slots 16 in the roller 13 and supports the product passing through the screen.” Specification, paragraph [0016]. Neither Muller nor Mueller discloses such a feature. In contrast, Muller discloses a solid rotor having no such assigned slot configured to transmit air therethrough, let alone a slot positioned adjacent to baffles on the rotor. Similarly, Mueller discloses a core 24, which is shown as a solid piece of material having no slots therethrough configured to convey air through the slots into the processing zone. As such, neither Muller nor Mueller, whether taken alone or in combination, can reasonably disclose or suggest the features of amended independent claim 16.

For at least the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 16 under 35 U.S.C. § 103(a).

Amended independent claim 17, while of different scope than that of claim 16, recites features similar to those discussed above in connection with independent claim 16. For at least this reason, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 17 under 35 U.S.C. § 103(a).

Furthermore, amended independent claim 17 recites, among other things, "the rotor includes a hollow shaft enclosed in a region of the processing zone by a roller; the outermost surface of the hollow shaft being separate from an inner most surface of the roller." As clearly disclosed in Figure 2 of the instant specification, the rotor 3 is separate (i.e. spaced from) the surrounding roller 13. Neither Muller nor Mueller discloses such a feature. In contrast, Muller discloses a single rotor 1 having no roller surrounding it in a region of the processing zone, let alone a roller having an innermost surface separate from the rotor's 1 outermost surface. Similarly, Mueller discloses a rotor 3 formed by a "hollow section with axle stubs 25 at the ends." Mueller, col. 3, ll. 43-45 (emphasis added). That is, since axle stubs 25 are only at the ends of the hollow section and do not pass through the center of the hollow section, rotor 3 of Mueller fails to disclose a rotary structure having a surrounding roller in a region of the processing zone. As such, neither Muller nor Mueller, whether taken alone or in combination, can reasonably disclose or suggest the features of amended independent claim 17.

For at least the foregoing reasons, claim 17 is allowable over Muller in view of Mueller. Claims 18-20, 22, 23, and 28 depend from and include all of the features of

claim 17. Claims 18-20, 22, 23, and 28 therefore are allowable over Muller in view of Mueller for at least the reasons set forth above with respect to independent claim 17 as well as for their additionally recited features. Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a) of claims 17-20, 22, 23, and 28.

Amended independent claim 24 recites, among other things, “the roller further including a plurality of assigned openings configured to convey air and located adjacently to the edged projections of the roller such that a flow connection is established between the processing zone and the hollow shaft.” Similarly, although of different scope, amended independent claim 30 recites, among other things, “a plurality of assigned slots configured to convey air such that a flow connection is established between the processing zone and the hollow shaft, each of the assigned slots being located adjacently to the edged projections of the roller.” As discussed above, the specification of the instant application provides that “[t]he hollow shaft 14 has a plurality of openings 17 for the discharge of air. The air enters the processing zone 6 through the slots 16 in the roller 13 and supports the product passing through the screen.” Specification, paragraph [0016]. Neither Muller nor Mueller discloses such a feature. In contrast, Muller discloses a solid rotor having no such slots/openings configured to convey air therethrough, let alone slots/openings positioned adjacent to a plurality of edged projections on the roller. Therefore, Muller fails to disclose a flow connection between the processing zone and the hollow shaft, as claimed. Similarly, Mueller discloses a core 24, which is shown as a solid piece of material having no slots/openings therethrough configured to convey air through the slots/openings into the

processing zone. Therefore, Mueller also fails to disclose a flow connection between the processing zone and the hollow shaft, as claimed. As such, neither Muller nor Mueller, whether taken alone or in combination, can reasonably disclose or suggest the features of amended independent claim 24.

For at least the foregoing reasons, independent claims 24 and 30 are allowable over Muller in view of Mueller. Claims 25-27 depend from and include all of the features of claim 24, and claims 31 and 32 depend from and include all the features of claim 30. Claims 25-27, 31, and 32 are therefore allowable over Muller in view of Mueller for at least the reasons set forth above with respect to independent claims 24 and 30 as well as for their additionally recited features. Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a) of claims 24-27, and 30-32.

Amended independent claim 11 recites, among other things, “assigned slots positioned adjacent to the baffles on the roller . . . [and] entering air into the processing zone through the assigned slots.” The Office Action alleges that Griebat “discloses the basic process and apparatus including degerning grains by cleaning, seeding, aspirating, and milling” but concedes that Griebat “does not use a rotor/stator combination” Office Action, at p. 2. In that light, the Office Action purports to rely on the Muller/Mueller combination. Office Action, at p. 2. However, as discussed above, neither Muller nor Mueller, whether taken alone or in combination, can reasonably disclose or suggest “assigned slots positioned adjacent to the baffles on the roller . . . [and] entering air into the processing zone through the assigned slots,” as

recited by independent claim 11. Further, the reliance on Griebat fails to cure this deficiency.

For at least the foregoing reason, claim 11 is allowable over Griebat in view of Muller and Mueller. Claims 15 and 29 depend from and include all of the features of claim 11. Claims 15 and 29 are therefore allowable over Griebat in view of Muller and Mueller for at least the reason set forth above with respect to independent claim 11 as well as for their additionally recited features. Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a) of claims 11, 15 and 29.

Conclusion

The Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the Office Action.

In discussing the specification and claims in this Amendment, it is to be understood that Applicant is in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

In view of the foregoing remarks, Applicant submits that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the Examiner's

reconsideration of the application, and the timely allowance of claims 11, 15-20, and 22-32.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916..

Respectfully submitted,

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